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ORDINANCE NO. 3788

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, COORDINATING THE PROVISIONS OF TITLE 18 AND TITLE 20 BY AMENDING ECDC SECTION 18.00.020(C); AMENDING 18.10.010 SEWER CONNECTIONS, SECTION E HEARING; AMENDING 18.10.030 UNLAWFUL CONNECTIONS; AMENDING 18.30.065 EXCEPTIONS TO MINIMUM REQUIREMENTS; AMENDING 18.30.080 ENFORCEMENT ACTIONS, (C) CIVIL PENALTY; AMENDING 18.30.130(C); AMENDING 18.40.120 PROHIBITED ROCKERIES, BY AMENDING SECTIONS (B) AND (C) AND ADDING A NEW SECTION (D); AMENDING SECTION 18.45.070 VIOLATIONS AND PENALTIES; AMENDING CHAPTER 18.60 BY THE ADDITION OF A NEW SECTION 18.60.050 DECISION AND APPEAL; AMENDING SECTION 18.70.030 (D) APPEAL; AMENDING SECTION 18.80.060 DRIVEWAY AND CURB CUT REQUIREMENTS, BY AMENDING SECTION (D) AND ADDING A NEW SECTION (E) APPEALS; SECTION 18.80.070 STREET SLOPE REQUIREMENTS; SECTION 18.85.060 VISIBILITY BLOCKAGE, (B) ENFORCEMENT; SECTION 18.95.030 TO ADD A NEW SUBSECTION (C), AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City Council has adopted new procedural provisions in Title 20 of the Edmonds Community Development Code, and

WHEREAS, the procedures of Title 20 are generally not applicable to the public works requirements of Title 18, and

WHEREAS, Title 18 contains a variety of administrative hearing and procedures, and

WHEREAS, the City Council wishes to clarify the application of the requirements of Title 20 to Title 18, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. The Edmonds Community Development Code, Section 18.00.020

Review, Section C, Decision hereby amended to read as follows:

18.00.020 Review.

...

C. Decision. The Public Works Director or his designee shall decide whether to approve, conditionally approve, or deny the application, based on staff analysis and comments from other departments. The decision shall be in writing, and unless another appeal procedure is specifically identified in the provisions of this title, shall be appealable to the Hearing Examiner pursuant to Chapter 20.06 ECDC as a Type II decision. Notice of the hearing shall be provided to the applicant and/or appellant and any other party who has requested notice in writing or provided written notice during the application process. Such notice shall be provided in writing at least five (5) business days prior to the hearing. No application may be approved that conflicts with any portion of the Community Development Code unless that portion is specifically subject to waiver or variance.

...

Section 2. The provisions of Chapter 18.10.010 Sewer Connections, Section E

Hearing, is hereby amended to read as follows:

18.10.010 Sewer Connections.

...

E. Hearing. The City Clerk shall notify the owner of each property in the same manner as notice is provided in a local improvement district of each proposed assessment. The City Council shall hold a hearing under the procedures applicable to a Type V legislative process. The City Council shall, by ordinance

after the hearing, assess the cost of making the connection against the property connected. The assessment shall become a lien against each property, shall be collected in the manner provided by law for the collection of local improvement assessments, and shall bear interest at the rate of interest established by ordinance from the date of the approval of the assessment.

...

Section 3. The Edmonds Community Development Code, Section 18.10.030

Unlawful connections is hereby amended to read as follows:

18.10.030 Unlawful connections.

A. Notice. If any land or structure contains an unauthorized connection to the sewerage system as prohibited by this Chapter, such connection or the maintenance of such connection shall constitute a misdemeanor subject to the penalties provided for in Chapter 5.50 ECC. In addition, and not by way of limitation, the Public Works Director or his designee may send notice to correct such violation to the owner of the premises addressed to the street address of the premises. Where the records of the water/sewer utility show a different address for the owner, a copy of the notice shall be mailed to that street address shown for billing purposes.

B. Administrative Hearing. The property owner may request an administrative hearing regarding the unauthorized connection, the maintenance of the connection and/or the property owner's failure to connect to the sewerage system (hereinafter "Condition"). Such request may be made in writing within thirty (30) days of the date of the mailed notice specified in paragraph A above. Such hearing shall be conducted before the Hearing Examiner as a Type II procedure pursuant to the procedures set forth in Chapter 20.06 ECDC.

C. Charge. If the Condition has not been corrected within the period specified by the Public Works Director, not less than sixty (60) days from the date of mailing of the notice, there shall be added to the utility bill prescribed by the Edmonds City Code for such premises an additional utility charge of \$20.00 per month for each month of violation after the expiration of the specified period. The additional is not a fine or penalty but rather is reflective of the additional burdens placed on the City's utility system and is assessed as a utility charge. The additional charge shall continue and be collected along with the full sewerage rate until such time

as the owner of the premises corrects such Condition. Upon correction, an additional utility charge of \$20.00 per month shall cease.

Section 4. The Edmonds Community Development Code Section 18.30.065

Exceptions to minimum requirements, introductory section is amended to read as follows:

18.30.065 Exceptions to minimum requirements.

Exceptions to the ESC and SQC minimum requirements may be granted prior to permit approval and construction. An exception may be granted in accordance with the procedures set forth in ECDC 18.00.020(C). Such exception may be granted only if all the following criteria for approval have been met:

...

Section 5. The Edmonds Community Development Code Section 18.30.080

Enforcement action, Section C Civil Penalty is hereby amended to read as follows:

18.30.080 Enforcement action.

...

C. Civil Penalty. A person who fails to comply with the requirements of this chapter, who fails to conform to an approval or order issued, who undertakes new development without first obtaining approval, or who fails to comply with a stop work order issued under these regulations shall be subject to a civil penalty levied in accordance with the provisions of Chapter 20.110 ECDC, provided, however that the appeal process shall commence with a notice of civil violation as provided in ECDC 20.110.040(B) and be subject to appeal as provided in ECDC 20.110.040(C)..

Section 6. The Edmonds Community Development Code Section 18.30.130

Maintenance enforcement, Section C. Civil Penalty, is hereby amended to read as follows:

18.30.130 Maintenance enforcement.

...

C. Civil Penalty. A person who fails to comply with the requirements of this Chapter or fails to conform to the terms of an approval or order issued shall be subject to the civil enforcement

procedures outlined in Chapter 20.110 ECDC, provided, however that the appeal process shall commence with a notice of civil violation as provided in ECDC 20.110.040(B) and be subject to appeal as provided in ECDC 20.110.040(C).

...

Section 7. The Edmonds Community Development Code Section 18.40.120 Prohibited rockeries, is hereby amended by the amendment of Sections B and C and the addition of a new Section D, to read as follows:

18.40.120 Prohibited rockeries.

...

B. No person shall construct a prohibited rockery in the City of Edmonds. The violation of any of the provisions of this section shall be punishable as a misdemeanor in accordance with the provisions of Chapter 5.50 of the Edmonds City Code. It shall be a separate offense for each and every day or portion thereof during which any violation of any provisions of this section is committed or be allowed to continue. Construction of a rockery prior to October 1, 2007 shall be an affirmative defense to an enforcement action for violation of this section.

C. In addition to the preceding criminal remedy, the construction of a prohibited rockery after October 1, 2007 is hereby declared to be a nuisance and shall be subject to abatement in accordance with the civil enforcement procedures of Chapter 20.110 ECDC.

D. Rockeries on public right of way or other public properties shall be the subject of an abatement order by the Public Works Director or his designee. Rockeries located on private property shall be subject to the abatement order of the Building Official. Rockeries located in part on public property or a public right of way and private property may be abated by either the Public Works Director or his designee, or the Building Official.

Section 8. The Edmonds Community Development Code Section 18.45.070

Violations and penalties is hereby amended to read as follows:

18.45.070 Violations and penalties.

A. A violation of any of the provisions of this Chapter shall constitute a misdemeanor and shall be punishable as provided in Chapter 5.50 of the Edmonds City Code. Each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed or permitted to continue shall constitute a separate offense.

B. Any person found to be in violation of the provisions of this Chapter shall be subject to a civil penalty in an amount not to exceed \$1,000 per day and/or \$500 per tree. This civil fine shall be in addition to any criminal, civil, or injunctive remedy available to the City. The Planning Division Manager shall utilize the procedures outlined in Chapter 20.110 of the Edmonds Community Development Code in order to notify an individual of violation, provided, however, that the appeal process shall commence with a notice of civil violation as provided in ECDC 20.110.040(B) and be subject to an appeal as provided in ECDC 20.110.040(C).

C. The fines established in subsection B of this section shall be tripled to \$3,000 per day and/or \$1,500 per tree for clearing which occurs within any critical area or critical area buffer, in any earth subsidence or landslide hazard area, any Native Growth Protection Easement or in any area which is designated for transfer or dedication to public use upon final approval of a subdivision, planned residential development or other development permit.

Section 9. Chapter 18.60 is hereby amended by the addition of a new Section

18.60.050 Decision and appeal to read as follows:

18.60.050 Decision and appeal.

Permits shall be processed and appealable in accordance with the provisions of ECDC 18.00.020.

Section 10. Section 18.70.030 Review is hereby amended to add a new subsection D to read as follows:

18.70.030 Review.

...

D. Appeal. The decision of the development services director,

city engineer, or their respective designees, may be appealed to the hearing examiner as a Type II procedure pursuant to Chapter 20.06; provided, however, that the establishment of compensation for use of the public right of way is a legislative decision of the city council and is not subject to judicial review.

Section 11. The Edmonds Community Development Code Section 18.80.060

Driveway and Curb Cut Requirements is hereby amended by the amendment of Section D

Driveway Slopes, and the addition of a new Section E, Appeals, to read as follows:

18.80.060 Driveway and curb cut requirements.

...

D. Driveway slopes.

1. Driveway slopes shall not exceed 14% unless authorized by the Public Works Director in accordance with the criteria set forth below. The decision of the Public Works Director shall be made only after notice as a Type II project permit application and decision. (See Chapter 20.01 ECDC)

2. The Public Works Director may authorize driveway slopes to exceed 14% up to a maximum of 20% if he determines that:

a. The driveway is the only economical and environmentally reasonable alternative;

b. The driveway will not present a traffic, pedestrian, bicycle or safety hazard or otherwise negatively impact public safety;

c. The police and fire chief concur in allowing the increased driveway slope; and

d. The public health, safety and general welfare will not be adversely affected.

3. The decision of the Public Works Director shall be in writing and placed in the appropriate City file pursuant to a signed, written statement of finding and conclusions for authorizing the driveway slope to exceed 14%. The statement shall also contain the maximum slope authorized up to 20%

4. The decision of the Public Works Director shall be processed as a project permit application and shall be applicable as a Type II appeal under the procedures in Chapter 20.06 ECDC.

Section 12. The Edmonds Community Development Code Section 18.80.070

Street slope requirements is hereby amended to read as follows:

18.80.070 Street slope requirements.

A. Street slopes shall not exceed 12% unless authorized by the Public Works Director. Such decision shall be made only after notice as a Type II project permit application and decision. (See Chapter 20.01 ECDC).

B. The Public Works Director may authorize street slopes to exceed 12%, up to a maximum of 15%, if the Director determines that:

1. The street proposed is the only economical and environmentally reasonable alternative;

2. The street proposed will not create a traffic, pedestrian, or bicycle hazard or otherwise negatively impact public safety;

3. The police and fire chiefs concur in the increased street slopes; and

4. The public health, safety and general welfare will not be adversely affected.

The decision of the Public Works Director shall be in writing and placed in the appropriate City file in the form of a signed and written statement of findings and conclusions for authorizing the street slope to exceed 12%. This statement shall also contain the maximum slope authorized up to 15%.

D. The decision of the Public Works Director shall be appealable as a Type II appeal pursuant to the provisions of Chapter 20.06 ECDC provided that notice shall be provided to all property owners with three hundred (300) feet of the street section proposed for a street slope exceeding 12%. .

Section 13. The Edmonds Community Development Code Section 18.85.060

Visibility Blockage Section B Enforcement, is hereby amended to read as follows:

18.85.060 Visibility blockage.

...

B. Enforcement.

1. If any property owner fails to prune or take other appropriate action in order to prevent visibility blockage or restore visibility as set forth in paragraph A above, and the Director of Public Works has actual knowledge of the condition, then the Director of Public works may, by written notice, order such person to prune or take other appropriate action with respect to such trees or vegetation within fourteen (14) days after written notice is sent. Notice shall be sent, postage paid, in the US Mail and presumed received two days following such mailing. The notice shall specify the action to be taken and inform the property owner(s) that failure to comply is subject to criminal prosecution as a misdemeanor in accordance with the provisions of Chapter 5.50 ECDC or as a civil violation pursuant to the provisions of ECDC Chapter 20.110.

2. If a person to whom notice is sent does not comply within the time specified in the written notice, in addition to any other action which the City may take, the Director of Public Works may effectuate the pruning of the trees or other vegetation and take any other appropriate action to correct the view blockage. The cost of such action shall be recorded and reported to the Hearing Examiner as provided below. The Director of Public Works, in his sole discretion, may then take the actions set forth in paragraph 3. below.

3. The Director of Public Works may:

a. Refer the matter to the City's Prosecutor for prosecution as a misdemeanor. Failure to correct in accordance with the provisions of written notice within the time specified shall constitute a misdemeanor punishable in accordance with the provisions of Chapter 5.50 ECC. Each and every day in which the property fails to take corrective action shall be considered a separate day of violation.

b. At his option, the Director of Public Works may utilize the civil enforcement procedures of Chapter 20.110, provided, that the notice provided herein shall constitute the notice required under

ECDC 20.110.040(A). The enforcement process shall therefore begin with the notice of civil violation in accordance with the provisions of ECDC 20.110.040(B) appealable pursuant to the provisions of subsection of said section. In addition to the fines provided for by Chapter 20.110 ECDC, the Hearing Examiner shall also assess the reasonable costs incurred in connection with Section 2 above.

Section 14. The Edmonds Community Development Code Section 18.95.030

Tandem parking prohibited is hereby amended by the addition of a new subsection C to read as follows:

18.95.030 Tandem parking prohibited.

...

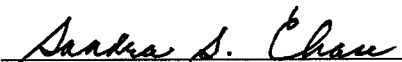
C. An application to provide additional parking spaces as set forth above shall be processed in accordance with the provisions of Section 18.00.020.

Section 15. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:


MAYOR GARY HAAKENSON

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	04-02-2010
PASSED BY THE CITY COUNCIL:	04-06-2010
PUBLISHED:	04-11-2010
EFFECTIVE DATE:	04-16-2010
ORDINANCE NO. <u>3788</u>	

SUMMARY OF ORDINANCE NO. 3788

of the City of Edmonds, Washington

On the 6th day of April 2010, the City Council of the City of Edmonds, passed Ordinance No. 3788. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, COORDINATING THE PROVISIONS OF TITLE 18 AND TITLE 20 BY AMENDING ECDC SECTION 18.00.020(C); AMENDING 18.10.010 SEWER CONNECTIONS, SECTION E HEARING; AMENDING 18.10.030 UNLAWFUL CONNECTIONS; AMENDING 18.30.065 EXCEPTIONS TO MINIMUM REQUIREMENTS; AMENDING 18.30.080 ENFORCEMENT ACTIONS, (C) CIVIL PENALTY; AMENDING 18.30.130(C); AMENDING 18.40.120 PROHIBITED ROCKERIES, BY AMENDING SECTIONS (B) AND (C) AND ADDING A NEW SECTION (D); AMENDING SECTION 18.45.070 VIOLATIONS AND PENALTIES; AMENDING CHAPTER 18.60 BY THE ADDITION OF A NEW SECTION 18.60.050 DECISION AND APPEAL; AMENDING SECTION 18.70.030 (D) APPEAL; AMENDING SECTION 18.80.060 DRIVEWAY AND CURB CUT REQUIREMENTS, BY AMENDING SECTION (D) AND ADDING A NEW SECTION (E) APPEALS; SECTION 18.80.070 STREET SLOPE REQUIREMENTS; SECTION 18.85.060 VISIBILITY BLOCKAGE, (B) ENFORCEMENT; SECTION 18.95.030 TO ADD A NEW SUBSECTION (C), AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 7th day of April, 2010.


CITY CLERK, SANDRA S. CHASE

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.



SUMMARY OF ORDINANCE NO. 3788 of the City of Edmonds, Washington

On the 6th day of April 2010, the City Council of the City of Edmonds, passed Ordinance No. 3788. A summary of the content of said ordinance, consisting of the title, provides as follows:

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The full text of this Ordinance will be mailed upon request.
DATED this 7th day of April, 2010.

CITY CLERK, SANDRA S. CHASE
Published: April 11, 2010.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3788

Coordinating the Provisions of Title 18 and Title 20

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

April 11, 2010

and that said newspaper was regularly distributed to its subscribers during all of said period.

Jody Shohl

Principal Clerk

Subscribed and sworn to before me this

12th

day of April, 2010

[Signature]

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

RECEIVED

APR 28 2010

EDMONDS CITY CLERK

Account Name: City of Edmonds

Account Number: 101416

Order Number: 0001691691

